

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

JUNE 6, 2006

President Danny Cook called the meeting to order at 1:00 P.M. at Marriott Franklin Cool Springs Hotel, 700 Cool Springs Boulevard, Franklin, Tennessee.

Board members present were Danny Cook, President, Ralph Buckner, Vice President, Bob Foster, Wendy Helling, Stephen Murphy, and Nancy Vincent. Board member David Murphy was absent.

Staff members present were Robert Gribble, Executive Director, Lauren Kitchell, Staff Attorney, and Sandra Cooper and Jimmy Gossett, Administrative Assistants.

APPROVAL OF MINUTES:

A motion was made by Mr. Steve Murphy to approve the minutes of the May 9, 2006 Board Meeting.

Seconded by Mr. Buckner

Adopted by voice vote

APPROVAL OF FUNERAL DIRECTOR AND/OR EMBALMER LICENSES:

Upon motion, based upon the application records, the following applicants were approved for licensure.

**Jason Franklin Anderson
Cookeville, TN**

Funeral Director

**Patricia Ann Chatwin
Horn Lake, MS**

Funeral Director

**Dawn Evelyn McGinnis
Blaine, TN**

Funeral Director

**Mark Avery Pickel
Old Fort, TN**

Funeral Director

**Michael Raymond Thomas
Portland, TN**

Funeral Director

**Kendall Ray Weatherford
McKenzie, TN**

Funeral Director

**Andy Christopher Austin
Newport, TN**

Funeral Director/Embalmer

**Richard LeRoy Osborn, Jr.
Kingsport, TN**

**Funeral Director/Embalmer
Reciprocity**

APPROVAL OF ESTABLISHMENT LICENSES: Upon motion, based upon the application records, the following applicants were approved for licensure.

**Spring Hill Funeral Home and Cemetery
Nashville, TN**

**Name Change
Ownership: Corporation**

**Alexander Funeral Home
Lafayette, TN**

**Name & Ownership Changes
New Ownership: Corporation**

**Thurman Funeral Home, LLC
Sparta, TN**

**Name & Ownership Changes
New Ownership: LLC**

**Dyer Funeral Home, LLC
Cookeville, TN**

**Change of Ownership
New Ownership: LLC**

**Madison Funeral Home, LLC
Madison, TN**

**Change of Ownership
New Ownership: LLC**

**LEGAL REPORT:
LAUREN KITCHELL, STAFF ATTORNEY**

1. Case No.: L06-FUN-RBS-2006014111

Complaint is the result of an inspector's notice of violation which alleges: that the FH was empty and that it looked like the business had been closed down. None of the requirements for operation were met.

After two requests, no response has been received.

Complaint History: 6

Recommendation: Consent Order assessing \$1250 civil penalty and authorization for a formal hearing. Letter of Warning – must respond to the Board.

A motion was made by Mr. Buckner to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

2. Case No.: L06-FUN-RBS-2006016391

Complaint is the result of an inspector's notice of violation which alleges: a copy of the cremation authorization is not being given to the authorizing agent at signing. A copy of the license and last inspection report of the crematory the FH uses is not on file. The inspector also noted FTC violations, including deficiencies on the GPL, and based on a random inspection of the records, four files did not contain a copy of the goods and services contracts. The FH did not have a CPL or OBCPL available for inspection.

FH promptly sent in a copy of the crematory license and last inspection report; a new corrected GPL; and copies of the goods and services contracts for the records.

Complaint History: 3

Recommendation: Consent Order assessing \$1000 civil penalty and authorization for a formal hearing. Letter of Caution - discussing when to give the authorizing agent a copy of the cremation authorization.

A motion was made by Mr. Buckner to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

3. Case No.: L06-FUN-RBS-2006015631

Complaint alleges improper advertising. The complaint contains a letter written to a healthcare organization discussing the establishments direct cremation package and other services it provides.

Respondent states that the letter was not intended to be an advertisement. The FH states that it was asked if it could provide an inexpensive means for disposition for families who could not afford a funeral service or burial. They state that the communication explained the direct cremation service.

Complaint History: 3

Recommendation: Dismiss

A motion was made by Ms. Hellum to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

4. Case No.: L06-FUN-RBS-2006015601

Complainant alleges that the FH has not delivered her father's personal items to her. She also alleges that she has not received a suit that she provided to the FH for her father to be buried in but that the FH did not use this suit because they buried him in a body bag due to decomposition. Complainant also alleges that the FH did not treat her father's remains with reverence and honor.

FH responds that the firm provides the utmost care and concern for all families they serve. They state that they provided service for the complainant's father through Social Services. The deceased was a medical examiner's storage case and they were contacted by social services to provide for burial services at no cost. The FH responds that no personal items were given to them by the ME's office and that is why none were given to the complainant. The FH responds that the body was badly decomposed and he was buried in a body bag but his suit was buried with him. This is what the complainant wanted. They deny any wrong doing and deny the allegations of the complainant.

Complaint History: 0

Recommendation: Dismiss

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

5. Case No.: L06-FUN-RBS-2006016081

Complaint is the result of an inspector's notice of violation which alleges: FTC violations, including deficiencies on the GPL, and CPL. The inspector also noted that the manager's FD license expired on January 31, 2006. The FH manager's license was expired at the time of inspection.

The FH responds that the price lists have been corrected. The FH states that the expired license of the manager was a mistake. The manager thought his license expired in June instead of January. Once notified that his license had expired, the manager ceased any and all actions of funeral directing. He completed all requirements and paid all dues and fines and was reissued his license. The FH made an immediate request for a change of manager. The FH responds that they acknowledge their mistakes and firmly attest that they were honest mistakes and were in no way committed with intent.

Complaint History: 1

Recommendation: Consent Order assessing \$1000 civil penalty and authorization for a formal hearing.

A motion was made by Mr. Buckner for a Consent Order with a \$500 civil penalty and authorization for a formal hearing.

Seconded by Mr. Steve Murphy

Adopted by voice vote

6. Case No.: L06-FUN-RBS-2006016441

Complainant alleges that the FH has not provided him with a death certificate of deceased. The individual passed away on March 18, 2006 and the funeral was on March 25, 2006. The complainant paid for the funeral services. The complainant alleges that he has been calling the FH and they have still not provided him with a death certificate as of April 25, 2006. Complainant alleges that he paid for a certified copy of the death certificate. He alleges that the FH told him to contact Vital Records for a copy and Vital Records told him that the only way to obtain the death certificate was by getting it from the FH.

Respondent FH says that on March 22, 2006 the complainant asked if the death certificates were ready and they told him that they had to take it to the doctor's office for his signature and that it should be ready within a week. The FH states that they took the death certificate to the doctor's office on March 24, 2006. He was not in the office so they left it there for his signature. The FH states that they followed up with the office every week to get the doctor's signature. The FH states that it picked up the certificate on April 27, 2006 and filed it with the Health Department. The FH also states that the complainant did not pay for a copy of the death certificate as it was not included on the goods and services contract. The complainant lived in another state and respondent FH states that he told them that he would request certified copies from the health department. The respondent FH states that they contacted the complainant when they filed the certificate with the health department as he requested.

Complaint History: 1

Recommendation: Dismiss

A motion was made by Mr. Foster to accept Counsel's recommendation.

Seconded by Ms. Helling

Adopted by voice vote

7. Case No.: L06-FUN-RBS-2006014911

Complainant alleges that his mother paid \$11,000 for a burial and received a beat up, bent and battered casket.

The respondent FH denies these allegations. They state that the complainant's mother came in with her granddaughter to make her funeral arrangements and picked out her casket. In March of 2005 she died and the FH states that they

provided the casket that she selected prior to her death. The FH states that if there was any damage to the casket, they would have seen it and corrected it during the visitation and funeral in March of 2005. The FH denies the complaint.

Complaint History: 1

Recommendation: Dismiss

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

8. Case No.: L06-FUN-RBS-2006015621

Complainant alleges that he paid for a memorial bench in December of 2005 and it has not been placed on the grave space.

Respondent FH states that it has contacted the monument company and they will set the stone.

Complainant states that he is now satisfied and he would like to withdraw the complaint.

Complaint History: 3

Recommendation: Dismiss

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Ms. Vincent

Adopted by voice vote

9. Case No.: L05-FUN-RBS-2006017121

Complainant alleges that the FH owes him \$2000 from his deceased wife's insurance policy. He alleges that the check the FH gave him had insufficient funds.

Respondent states that this was an unfortunate bookkeeping error and that the funds have now been paid to the complainant.

Complainant states that he is now satisfied and he would like to withdraw the complaint.

Complaint History: 3

Recommendation: Dismiss

A motion was made by Ms. Vincent to issue a Letter of Warning for improper business practices.

Seconded by Mr. Buckner

Adopted by voice vote

10. Case No.: L06-FUN-RBS-2006017731

Complaint is the result of an inspector's notice of violation which alleges: FTC violations, including deficiencies on the GPL, and CPL. A copy of the crematory license and last inspection report that the FH uses was not available for inspection. Copies of three FD licenses were not available for inspection. A copy of an embalmer's license was not available for inspection. The inspector also noted that when he went to inspect the preparation room he saw a person cleaning up. This person admitted to the inspector that they had just completed embalming the body in the preparation room. This person is not a licensed embalmer in the State of Tennessee.

FH responds that a copy of the crematory license, last inspection report, FD licenses, embalmers license, were all available for inspection and they had corrected the price lists. The FH responds that the unlicensed person did not embalm a body but that he had just finished putting cosmetics on the body and they never told the inspector that they embalmed the body because the body was embalmed the night before by the manager. The FH states that the unlicensed person is a licensed FD and embalmer in another state and is applying for reciprocity.

Complaint History: 1

Recommendation: Consent Order assessing \$2000 civil penalty and authorization for a formal hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

A motion was made by Ms. Vincent to open a complaint against the unlicensed person and anyone else that was aiding and abetting in the matter.

Seconded by Mr. Buckner

Adopted by voice vote

11. Case No.: L06-FUN-RBS-2006016491

Complaint is the result of an inspector's notice of violation which alleges: violation of TCA §62-5-313(c). The inspector issued a citation based on these facts: an unlicensed person works at the FH every day alone. The unlicensed person stated that a FD is only called when he is needed and comes down from the other establishment where he works.

The FH responds that the manager is on call and his travel time is 10-15 minutes to the FH. The FH feels that it is in compliance with the law and disagrees with the Board's interpretation.

Complaint History: 0

Recommendation: Letter of Warning

A motion was made by Mr. Buckner to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

12. Case No.: L06-FUN-RBS-2006016501

Complaint is the result of an inspector's notice of violation which alleges: FTC violations, including deficiencies on the GPL, CPL, and OBCPL.

FH sent in the corrected price lists.

Recommendation: Consent Order assessing a \$250 civil penalty and authorization for a formal hearing.

A motion was made by Ms. Vincent to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

**STAFF REPORT:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**

1. Meeting of Board Chairs, Directors and Attorneys with Assistant Commissioner:

The meeting on May 22nd, attended by President Danny Cook, addressed issues pertinent to legal considerations, administrative considerations, Robert's Rules of Order, legislation, and responsibilities of the Board, Chair, Director, Staff Attorney

and Assistant Commissioner. For informational purposes, the Agenda for that meeting was included in each board member's packet.

2. New Contract for State Board Examinations and Laws & Rules Examination:

International Conference of Funeral Service Examining Boards, Inc., of Fayetteville, Arkansas

- Computer based testing for candidates
- Immediate results at completion of test
- Test locations in Chattanooga, Johnson City, Knoxville, Memphis and Nashville

3. Tennessee State Funeral Directors & Morticians Association:

The Executive Director has been invited and has received the Assistant Commissioner's approval to attend the convention of the Tennessee State Funeral Directors & Morticians Association on Monday, June 19th in Memphis.

4. Disciplinary Actions:

The Board has previously authorized these consent orders and civil penalties. The Consent Orders have been signed and the civil penalties paid by the respondents. The Executive Director requests the Board's acceptance of the following consent orders.

Complaint No. 2005041581

Violation: Several FTC price violations and extremely unsanitary preparation room

Action: \$1000 Civil Penalty

Complaint No. 2006006431

Violation: Several FTC price violations, unsanitary preparation room and failure to affix a permanent identification device to two decedents

Action: \$750 Civil Penalty

Complaint No. 2005039391

Violation: Several FTC price violations

Action: \$500 Civil Penalty

Complaint No. 2006006911

Violation: Several FTC price violations including no OBCPL available, charging a higher price than listed for services and funeral contract missing from file

Action: \$500 Civil Penalty

Complaint No. 2006013011

Violation: Several FTC price violations

Action: \$250 Civil Penalty

Complaint No. 2006010171

Violation: Several FTC price violations
Action: \$250 Civil Penalty

Complaint No. 2006005651

Violation: Several FTC price violations including several caskets in selection room priced higher than listed on CPL
Action: \$250 Civil Penalty

Complaint No. 2006006031

Violation: Failure to affix a permanent identification device to decedent
Action: \$250 Civil Penalty

Complaint No. 2006010191

Violation: Several FTC price violations
Action: \$250 Civil Penalty

Complaint No. 2006006921

Violation: Several FTC price violations and business cards of licensed employee incorrectly identified that person as the establishment manager
Action: \$250 Civil Penalty

Complaint No. 2006013021

Violation: Several FTC price violations and copy of cremation authorization not in file of the decedent
Action: \$250 Civil Penalty

Complaint No. 2006016121

Violation: Several FTC price violations and no copy of the crematory license and last inspection report of the crematory that the funeral home uses
Action: \$250 Civil Penalty

A motion was made by Mr. Steve Murphy to accept Executive Director's request.

Seconded by Mr. Buckner

Adopted by voice vote

5. Manager Changes

There have been five establishments report manager changes since the last meeting.

Name of Establishment	Name of New Manager
Alexander-Goad Funeral Home, Inc.	Jerry K. Capps
Lafayette, TN	

Pettus-Owen & Wood Funeral Home	Margo L. Lamb
Nashville, TN	
Mundy Funeral Home	Roy Lee Mundy, Jr.
Jamestown, TN	
Mundy Funeral Home South Chapel	Roy Lee Mundy, Jr.
Clarkrange, TN	
Oak Lawn Funeral Home – Cremation Center	Jeff L. Wilson
Sparta, TN	

6. Next Board Meeting:

Tuesday, August 8th at 10:00 A.M. – Davy Crockett Tower, Conference Room 160

7. Board Work Session:

Tuesday, August 8th at 1:00 P.M. – Davy Crockett Tower, Conference Room 640

ADJOURN:

A motion was made by Mr. Foster to adjourn.

Seconded by Mr. Steve Murphy

Adopted by voice vote

There being no further business, the meeting was adjourned at 2:19 P.M.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director